

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

WILLIAM D. GOWER,

v.

MICHAEL J. ASTRUE, Commissioner of Social
Security

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1:07-cv-0043


ORDER

Before the Court is the Report and Recommendation of Magistrate Judge Brown wherein he recommends reversal of the Commissioner's decision and a remand to the Commissioner for award of benefits. The Commissioner has timely filed objections.

The Magistrate Judge is correct in his Report and Recommendation. The Sixth Circuit was as clear as the English language permits: "Because we conclude that Plaintiff established a *prima facie* [case] through step four of the analysis, we remand the case for a determination as to whether Defendant is able to demonstrate that there is work in the national economy that Plaintiff is able to perform under step five." (Tr. at 463). This the Commissioner refused to do. Instead the Administrative Law Judge reviewed the entire case finding a Residual Functional Capacity (RFC) at step four. The Sixth Circuit directed consideration only of jobs Plaintiff was capable of performing under step five.

The Plaintiff's Motion for Judgment on the Administrative Record is **GRANTED**. The Commissioner's decision is **REVERSED**, and this case is **REMANDED** for an award of benefits. This case is **DISMISSED**.

IT IS SO ORDERED.


Thomas A. Wiseman, Jr.
Senior U.S. District Judge